

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

KATRINA MACKLEY, as next of friend of EM,
A minor,

Plaintiff,

Case No. 1:24-cv-00076-RJJ-SJB
Hon. Robert J. Jonker
Mag. Sally J. Berens

-v-

MASON PUBLIC SCHOOL DISTRICT;

Defendant.

BRANDON T. WOLFE (P82421)
WOLFE TRIAL LAWYERS, PLLC
Attorney for the Plaintiff
2844 Livernois Rd., Suite 276
Troy, Michigan 48099
Ph: (313) 450-2015
brandon@hirethewolfe.com

Mark T. Ostrowski (P49761)
Kluczynski Girtz & Vogelzang
Attorneys for Defendant
Mason Public School District
3033 Orchard Vista Dr, SE, Ste. 308
Grand Rapids, MI 49546
(616) 459-0556
MarkO@kgvlaw.com

UPDATED JOINT STATUS REPORT

NOW COME the Parties, through their respective counsel, for their Updated Joint Status Report, state as follows:

The 2nd Rule 16 Scheduling Conference is on the docket for May 8, 2025 at 10:00 a.m.

Counsel Brandon Wolfe will be appearing on behalf of Katrina Mackley as next of friend for EM. Mark Ostrowski will be appearing on behalf of Defendant, Mason Public School District.

The parties participated in an Early Settlement Conference with Magistrate Judge Berens on February 6, 2025. The parties were unable to negotiate a resolution and prospects for settlement are not favorable.

The deadline for Discovery closed on January 31, 2025, and Defendant filed a motion for summary disposition, with supporting brief and exhibits on March 12, 2025. Plaintiff filed a response in opposition on April 9, 2025 and Defendant filed a reply brief on April 23, 2025. A hearing on the motion is currently scheduled for May 19, 2025.

If Defendant's Motion for Summary Judgment is denied, Defendant proposes that motions in limine be filed in an attempt to narrow the issues to be presented at trial. Depending on the outcome of the motions in limine, Defendant may seek to have a psychological examination conducted by one of its expert witnesses. Defendant secured the deposition of Plaintiff, Katrina Mackley on January 29, 2025. At that time, Defense Counsel provided a letter dated January 17, 2025 from Michigan State University Psychiatric Department opining that E.M. suffers from PTSD and Major Depressive Disorder, Moderate for which she began treating in November of 2024. Plaintiff also provided a report from Psychologist, Dr. Emily Escott dated January 10, 2025.

Defendant submits that based on the holding in *S.C. v Metro Government of Nashville*, 86 F4th, 707 (6th Cir 2023) that a Plaintiff cannot recover damages for emotional distress for an alleged violation of Title IX, psychological testimony is not relevant to any issue in this case and should be excluded. Plaintiff's counsel disagrees.

Plaintiff submits that each of Plaintiff's psychologists will likely testify that the continued harassment in the school setting was severe, pervasive, and objectively offensive and denied E.M. equal access to education. The psychological impact on E.M. can only be understood through the lens of a licensed psychologist when ascertaining whether the District responded to B.D.'s sexual harassment of E.M. in a way that is "clearly unreasonable in light of the known circumstances." See *Davis v Monroe Cnty. Bd. of Educ.*, 526 U.S. 648 (1999).

If this court finds that psychological testimony will be admissible at trial, Defendant requests an opportunity to have a psychological examination performed and an opportunity for the parties to take expert depositions.

/s/ Brandon T. Wolfe
Brandon T. Wolfe (P82421)
Attorney for the Plaintiff

/s/ Mark T. Ostrowski
Mark T. Ostrowski (P49761)
Attorney for Defendant Mason Public
School District